

ZONING BOARD OF APPEALS

The hearing on Tuesday, June 4, 2024, is called to order by Chairman Kalinowski at 7:00 pm.

Members present: John Jimenez

Greg Kalinowski

Shawn Pralow

Robert Schafer, Alternate

Jim Lembke

Also: Phyllis Todoro, Town Atty

Absent: Harry Kwiek

Ron Carey

Ray Balcerzak, Building Insp

Appeals Case #1459 for Scott Sitarek of 2371 Woodard Road, Elma, NY who is requesting an area variance to build a garage with less than the required side yard setback §144-98 C4, Residential B.

Scott Sitarek was present and explained that the house is on the corner of the property and there is already a garage that will come down and a new garage will be built. Mr. Kalinowski asked if there is any additional information regarding the garage and it is a pole barn type structure that will be going up with steel siding and it will be used for storage. A larger garage is needed to store their RV in the building. He is looking to keep the RV out of storage and on his premises.

Mr. Jimeenz asked about the pole barn and there will be a lean to on the building. John asked about a boat, and they still have the boat, so that will also be in the garage along with all the items to keep up the lawn. The height is 16 feet tall to accommodate the RV getting in the building. There is only RV located at the property, the other one was his sons.

Mr. Lembke asked if the neighbor is aware of the size of the building and Scott spoke to both his neighbors and they did not have an issue with the size. MR. Pralow asked if there were any drainage issues and there is not. The electric service will be reused from the previous building. Mr. Schafer asked about the extension and if he has access through. Access would be from the loft and the double doors.

John asked the reason for the location, and the reply was that it is to not interfere with the septic system on the property. That is why the variance is being requested.

No one spoke in favor or against the variance.

Mr. Schafer made the motion to approve for Appeals Case #1459 for Scott Sitarek of 2371 Woodard Road, Elma, NY who is requesting an area variance to build a garage with less than the required side yard setback §144-98 C4, Residential B based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created.

Seconded by Mr. Jimenez Ayes-5. Nays-0.

Appeals Case #1460 for Tyler Tedesco of 485 Rice Road, Elma, NY who is requesting an area variance to create a common driveway for two parcels §144-33, Residential C.

Tyler Tedesco was present and explained that there is a 1800 driveway that goes back to the other property next to where he is building. Tyler's house is about 600 square feet from the roadway.

Mr. Kalinowski asked if an agreement was created, and they have already signed an agreement. Mr. Schafer asked how he decided where he was going to build his house, he still wanted to be close enough to the road. Mr. Schafer asked about the water and the utility services for the

house. Tyler explained that National Fuel is still doing some research for his gas line but the water line has been installed already.

Mr. Schafer asked if he thought about the driveway when he purchased the property and he had. Mr. Pralow asked if they know how many times the parcel has been split and this is the first time. Mr. Pralow asked if there is any intent to sell off another piece of the property and there is not he has 150 sq. ft of frontage.

Mr. Jimenez asked about the easement agreement that has been signed and if it has an expiration date on the document that it would end if he did not live there. Tyler replied there is no expiration date. John asked if two cars could get on the driveway.

No one spoke in favor of the variance. Against the variance was Michael & Renata Greco of 457 Rice Road.

Mr. Jimenez made the motion to approve Appeals Case #1460 for Tyler Tedesco of 485 Rice Road, Elma, NY who is requesting an area variance to create a common driveway for two parcels §144-33, Residential C based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created.

Seconded by Mr. Schafer Ayes-5. Nays-0.

Appeals Case #1461 for Ronald Kimmel of 5763 Seneca Street, Elma, NY who is requesting a use variance to change an office space building to a four-apartment building §144-84 A1; §144-74 A3 and §144-140, C-2.

Ronald Kimmel and Atty. Ralph Lorigo were present to request that just two apartments being allowed in the upstairs. Mr. Lorigo explained that he contacted the building department today and amended his request to be for the upstairs apartments. Mr. Kimmel is willing to update the building for the apartments going upstairs. The lower floor will still be commercial. The building will not look any different on the outside of the building. The neighborhood has both commercial and residential areas around his property so it would fit in to the surrounding area.

He has tried to rent the property for two years and has not been successful. Mr. Kimmel has several properties in town and knows how to rent the building out, so he has tried several ways to rent the building.

Mr. Kalinowski asked for clarification on the size of the building and the second floor is 1800 sq ft and each apartment would be 900 sq ft of living space. Mr. Jimenez mentioned that the area around the building and the majority is commercial. John asked if he owns other commercial property near this location. John asked about the activity for the commercial space and there has not been any interest in renting the building. Mr. Schafer asked about the four apartments and Mr. Lorigo corrected Mr. Schafer that it will only be two apartments.

Mr. Pralow asked about the five items for an area variance and Mr. Lorigo said Mr. Colern wrote it up as a use variance and it reflects to be a area variance. Shawn mentioned that the last time they asked for the variance they asked for some paperwork that shows the building is listed for renting. The hope is the downstairs may rent easier if the upstairs was apartment. Mr. Kalinowski again mentioned that it will only be two apartments and that the change be noted.

No one spoke for or against the variance.

Mr. Pralow made the motion to approve Appeals Case #1461 for Ronald Kimmel of 5763 Seneca Street, Elma, NY who is requesting a use variance to change an office space building to a two-

apartment building both 9 square feet each §144-84 A1; §144-74 A3 and §144-140, C-2 based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created.

Seconded by Mr. Jimenez Ayes-5. Nays-0.

Appeals Case #1462 for Todd Huber of 6301 Seneca Street, Elma, NY who is requesting an area variance to build a horse-riding arena that exceeds the 3,000 sq. ft. §144-71; §144-78 C2, C-1.

Mr. Huber was present and explained the drawings that were submitted for the horse-riding arena. He told the board that six years ago he bought the property and renovated the property. The barn was expanded and there have been several pieces of property that were purchased for this project. His family is very active in 4_H and other events. The building in front would be a tack shop. Mr. Schafer asked about the property that is owned and if he owns all the horses and Mr. Huber replied that he has several family members that care for the horses and that he might possibly lease out spaces for other horses. Mr. Schafer replied that his concern would be that other people would not keep up the appearance like he would. Mr. Huber stated he is not looking to not be involved, he would oversee everything. Mr. Pralow asked about the building in front of the barn and Mr. Huber told the board that someone is living in that building.

Mr. Jimenez asked about only three stalls being shown in the drawing and that proposed is fifteen stalls and Mr. Huber replied he wants room to expand. The existing barn will be the only two-story building. The riding arena is almost 15,00 square feet. Mr. Jimenez stated that the first 300 feet of the property is commercial. Mr. Lembke asked about the 4-H and if they would have events and the reply was yes it would be possible.

In favor was Jackie Coons of 6241 Seneca Street.

Against the variance was John Flanagan of 41 Rice Road and Mary Walczak of 31 Rice Road.

Mr. Lembke made the motion to approve Appeals Case #1462 for Todd Huber of 6301 Seneca Street, Elma, NY who is requesting an area variance to build a horse-riding arena that exceeds the 3,000 sq. ft. §144-71; §144-78 C2, C-1 based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created.

Seconded by Mr. Pralow Ayes-5. Nays-0.

Motion to adjourn at 8:43pm by Mr. Jimenez and seconded by Mr. Pralow.

Respectfully submitted,

Kerry Galuski
Zoning Board Secretary